



W.P.No.6880 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2023

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.6880 of 2023

and

WMP.No.6971 of 2023

Tmt.Vimala Paramanandam

... Petitioner

Vs.

1.The Executive Engineer,
Zone – 7 Ambattur,
Greater Chennai Corporation,
No.536, C.T.H.Road,
Opp. Dunlop Company,
Ambattur,
Chennai – 600 053.

2.The Secretary to Government (Technical),
Housing and Urban Development
Department,
Secretariat,
Chennai – 600 009.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue
a Writ of Certiorari, to call for the records in Letter No.15136/U-VI(2)/2022-3 dated



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16.02.2023 on the file of the 2nd respondent arising out of order dated 10.08.2022 in

De-occupation Notice No.Zone-7/Divisions-86/TPENF/050/2022 on the file of the 1st

respondent and to quash the same.

For Petitioner : Dr.G.Krishnamurthy

For R1 : Mr.D.B.R.Prabhu

For R2 : Mr.P.Gurunathan
Additional Government Pleader

* * * * *

ORDER

[Order of the Court was made by N.MALA,J.]

This Writ Petition is filed to call for the records in Letter No.15136/U-VI(2)/2022-3 dated 16.02.2023 on the file of the 2nd respondent arising out of order dated 10.08.2022 in De-occupation Notice No.Zone-7/Divisions-86/TPENF/050/2022 on the file of the 1st respondent and to quash the same.

2.The petitioner is the owner of the property, against which the impugned order has been passed. The petitioner claims that the property was originally purchased by her father-in-law on 30.06.1956 and thereafter the property was settled in her favour by her husband on 30.11.2018. According to the petitioner, the building consisting of



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ground floor and first floor was constructed by her prior to 1999. The petitioner had given a complaint against one Prithiviraj for unauthorised construction at No.359, Pillaiyar Koil Street, Mannurpet, Chennai - 600 059 on the property belonging to her. According to the petitioner, a Civil Suit was pending in O.S.No.356 of 2019 before the Thiruvallur Court. The said Prithiviraj in-turn lodged a complaint against the petitioner. According to the petitioner, without any enquiry or inspection on the said complaint, the first respondent issued notice to her. The petitioner filed a revision under Section 80(A) of the Tamil Nadu Town and Country Planning Act before the second respondent against the de-occupation notice issued to her by the first respondent. Section 80(A) revision was rejected by the second respondent on 16.02.2023 and aggrieved by the same, the petitioner filed the above writ petition with the aforesaid prayer.

3.The counter was filed by the second respondent. The second respondent in it's counter stated that the personal hearing was conducted on 23.11.2022, on which date the petitioner, her counsel and the objector were present. After hearing the parties, the impugned order was passed. The second respondent further submitted that though a stop work, locking and sealing and demolition notices were issued by the first respondent, the petitioner in utter disregard of the same completed the construction. It was only after careful examination of the case, the second respondent dismissed the



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revision petition filed by the petitioner.

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4.The learned counsel appearing for the petitioner relying on the grounds raised in the affidavit submitted that the impugned order was passed mechanically without inspecting the property. The learned counsel further submitted that reasonable opportunity was not given to the petitioner and also the impugned order was liable to be set aside as barred by limitation.

4.The learned Standing Counsel and the learned Additional Government Pleader for the respondents on the other hand submitted that ample opportunity was given to the petitioner, who appeared in the personal hearing along with her Advocate and therefore, the contention of the petitioner that reasonable opportunity was not given is untenable. The learned Standing Counsel and the learned Additional Government Pleader further submitted that after thorough examination of the case, the petitioner's revision petition was dismissed.

5.We have heard all the learned counsels.

6.It is seen that even in the impugned order, it is clearly stated that the personal



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hearing was conducted on 23.11.2022, wherein the revision petitioner along with her learned counsel, the objector and the officials from Greater Chennai Corporation were present. Hence the submission of the petitioner's counsel that reasonable opportunity was not given to the petitioner cannot be sustained. The learned counsel for the petitioner further states that the proceedings are barred by limitation because, the construction was made long back. The petitioner has not filed a single document to establish when the construction was made. Therefore, the objection of the learned counsel for the petitioner is rejected.

It is the respondent's contention that there is a civil suit pending between the petitioner and the objector and that in spite of the stop work notice, locking, sealing and demolition notice, the petitioner continued with the construction and completed the same. Admittedly, the petitioner has not been able to produce the planning permission for putting up the construction of the building consisting of ground + first floor. It is also seen that a civil dispute is pending. It is rightly contended by the respondents that the petitioner will not be able to get the planning permission as she was not in a position to obtain the patta because of the pendency of the civil suit.

8.Considering the aforesaid facts, we are of the view that there is absolutely no



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illegality or infirmity in the impugned order passed by the second respondent. In view of the same, a direction is issued to the respondent to take further action as per the law.

9. With the aforesaid direction, this Writ Petition stands disposed of.

Consequently, the connected miscellaneous petition stands closed. However, there shall be no order as to costs.

J.N.B.J., N.M.J.,
24.08.2023

Index : yes/no
Internet : yes/no
ah

To

1. The Executive Engineer,
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